

OGC Has Reviewed

4 August 1955

MEMORANDUM FOR: Acting Deputy Director (Support)

SUBJECT : Compensation for Consultants to CIA

1. Colonel White has requested our views concerning the authority of this Agency to compensate consultants at rates higher than \$50.00 per day, if we should desire to do so. He had received reports that the Atomic Energy Commission and the Department of Defense are compensating some consultants at \$75.00 and \$100.00 per day.

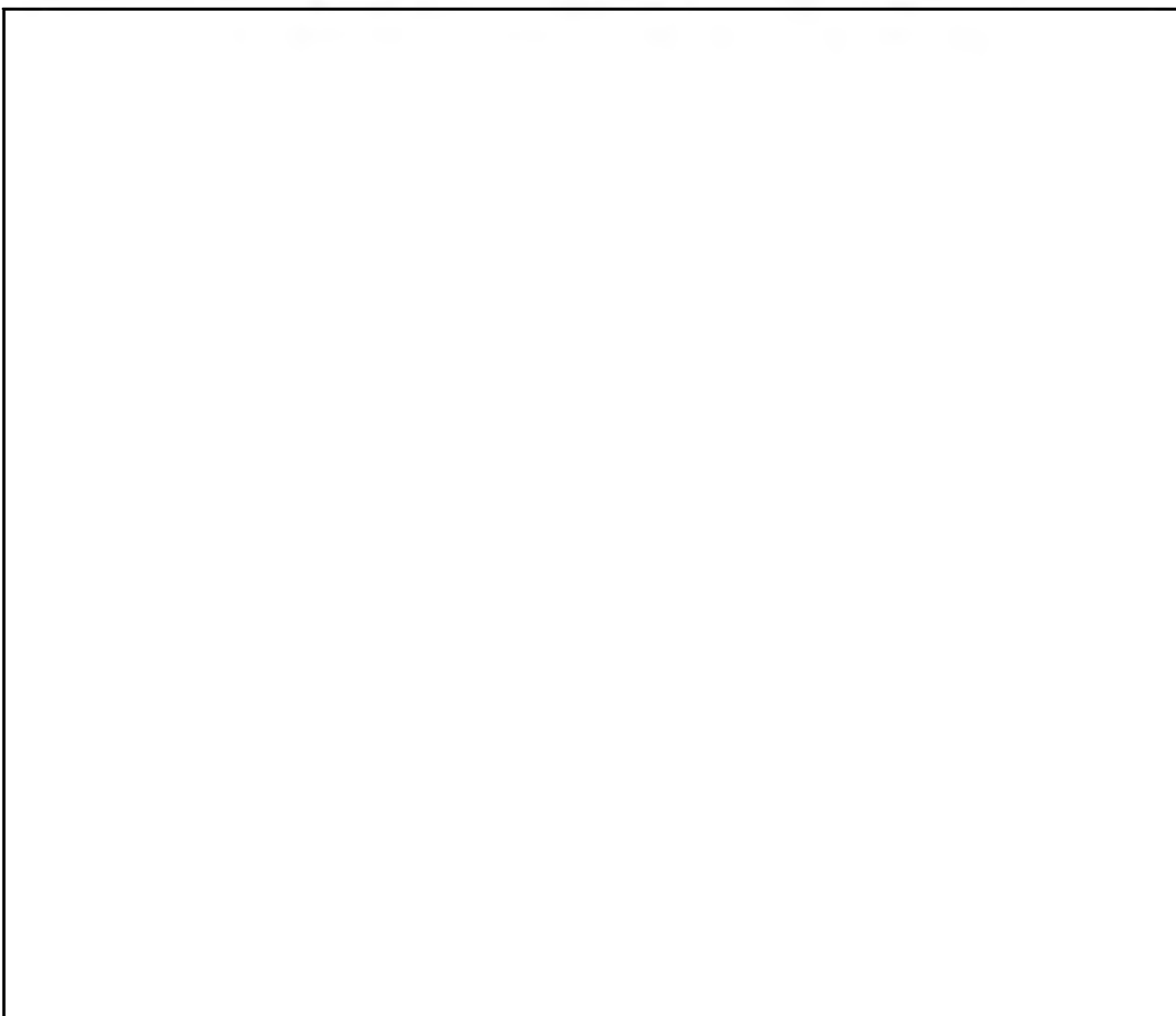
2. The rule with respect to compensation for consultants, applicable to the government generally, is stated in Section 15 of the Administrative Expenses Act of 1946 (P.L. 600, 79th Cong.; 5 U.S.C. 55a), which reads:

"The head of any department, when authorized in an appropriation or other Act, may procure the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract, and in such cases such service shall be without regard to the civil-service and classification laws (but as to agencies subject to the Classification Act at rates not in excess of the per diem equivalent of the highest rate payable under the Classification Act, unless other rates are specifically provided in the appropriation or other law) and, except in the case of stenographic reporting services by organizations, without regard to section 3709, Revised Statutes, as amended by this Act."

3. The Atomic Energy Commission is among several agencies to which the Classification Act does not apply. Hence, the limit on compensation stated in the second parenthetical phrase in Section 15 does not apply to the AEC. Further, the authority "in an appropriation or other Act" to obtain the services of experts or consultants which, under Section 15, is required in order to give practical effect to Section 15, is included in the Appropriations Act of 1956 for the Atomic Energy Commission and imposes no limit on the compensation which may be paid: "That the following sums are appropriated . . . For necessary operating expenses of the Commission in carrying out the purposes of the Atomic Energy Act of 1954, including . . . services authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)" (Public Works Appropriation Act, 1956, P.L. 163, 84th Cong.). Accordingly, the Atomic Energy Commission is authorized to compensate at rates higher than \$50.00 per diem.

4. The required authority "in an appropriation or other Act" is also available for the Department of Defense, in Section 601 of the Department of Defense Appropriation Act, 1956 (P.L. 157, 84th Cong.). The authority is limited, however, to rates "not in excess of \$50.00 per day". Defense is also limited to \$50.00 by Section 303(a) of the National Security Act of 1947 (see paragraph 5 below for additional discussion of Section 303(a)). The Office of General Counsel of Defense has advised us, informally, that Defense has not utilized the authority which is provided by the Mutual Security Act to compensate at rates up to \$75.00 (that is, they have not applied rates above \$50.00). Also, a few months ago Defense was authorized, for a period of a few weeks only, to compensate engineers up to \$100.00 in connection with the St. Lawrence Seaway. Aside from these two instances Defense is subject to the normal rule in Section 15. In essence, therefore, the Department of Defense may not compensate at rates above \$50.00 per diem.

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Office of General Counsel

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